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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,929	03/15/2004	Sergei Meleshchuk	MS1-1908US	2328

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EXAMINER	
SCHNEIDER, JOSHUA D	
ART UNIT	PAPER NUMBER
2182	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	12/27/2006	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 12/27/2006.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No.	Applicant(s)	
	10/801,929	MELESHCHUK, SERGEI	
	Examiner	Art Unit	
	Joshua D. Schneider	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 3/15/04
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2, 11, 13, 24, and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regards to claims 1 and 11, it is not clear how a buffer can be sent to another process, as normally data is transferred from a buffer, but not the buffer itself.

5. Dependant claims 2-10 are rejected for incorporating the same rejectable subject matter as the independent claim upon which they depend.

6. With regards to claims 2, 13, 24, and 33, it is unclear how the buffer fullness process operates with respect to the delay timing operation. It is unclear how the processes are compatible with one another, as one must have a higher priority in order for the two processes to be compatible, but no priority of operation or ordering of determination is defined by the claim.

7. The term "approximately full" in claims 2, 13, 24, and 33, is a relative term that renders the claim indefinite. The term " approximately full" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the

art would not be reasonably apprised of the scope of the invention. Approximately full and other terms can be used to indicate widely varying amounts of threshold levels of fullness.

8. The term "approximately double" in claims 4, 14, 25, and 35, is a relative term that renders the claim indefinite. The term "approximately double " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Approximately double indicates a lack of reliability in how close to double a time may be when seemingly a doubling of a number would yield an exact number.

9. All further objections and rejections are made in light of the specification as best understood in view of the previous objections and rejections.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 6-9, 10-12, 17-20, 21, 23, 26, 30, 32, 38, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0216155 to Kobayashi.

12. With regards to claims 1, 11, 12, 20, 21, 30, and 38, Kobayashi teaches a memory (buffering, paragraph 18) determining an amount of time to communicate a message and receive a response to the message by a first process respectively to and from a second process (response

reception, paragraph 30); InterProcess Control (IPC) manager that is executable on the processor to: computing a buffer delay time from the amount of time (calculating delay time, paragraph 30); storing data from the first process in a buffer (adjusting buffering time, paragraph 30); and when the buffer delay time is reached, available to the second process when the buffer delay time is reached (inherent to time buffering). With regards to claim 21, Kobayashi does not explicitly teach a processor, but it is inherent to the data communications being sent between processes, as there must be a processor to control the data transfers.

13. With regards to claim 6, Kobayashi teaches the first and second processes are respective running programs that communicate, one to another (response reception and transmission, paragraph 30).

14. With regards to claim 7, Kobayashi teaches the first and second processes are respective running programs having one or more corresponding sets of data that are associated with respective first and second applications (response reception and transmission by separate entities with own functioning processes, paragraph 30).

15. With regards to claims 8 and 17, Kobayashi teaches the first and second processes are running programs that are executed on respective first and second clients (host and base stations, paragraphs 28 and 29); and the first client is communicatively coupled to the second client over a network (response reception and transmission by separate entities with own functioning processes, paragraph 30).

16. With regards to claims 9, 18, and 26, Kobayashi teaches the sending includes passing control over the data in the buffer from the first process to the second process (control over data passed with sending of data, paragraph 30).

17. With regards to claims 10 and 19, Kobayashi teaches the sending includes communicating the stored data within the buffer to the second process (data sent after buffering time, paragraph 30).

18. With regards to claims 23 and 32, it is inherent that the transmission program of Kobayashi is executable in native code to perform the computing and the managing, or the system would not function.

19. With regards to claim 40, Kobayashi teaches the providing means is executable on a client and the processing means is executable on a remote client that is communicatively coupled to the client over a network (response reception and transmission by separate entities with own functioning processes, paragraph 30).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

21. Claims 2, 13, 24, and 33, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0216155 to Kobayashi in further view of U.S. Patent Application Publication 2005/0060472 to Mantey et al.

22. With regards to claims 2, 13, 24, and 33, Kobayashi fails to teach, but Mantey teaches when the buffer is approximately full, sending the buffer to the second process (paragraph 60). It would have been obvious to one of ordinary skill in the art at the time of invention to combine

the buffer full sending of Mantey with the data system of Kobayashi in order to avoid buffer overflow.

23. Claims 3, 4, 14, 22, 25, 31, and 35, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0216155 to Kobayashi in further view of U.S. Patent 5,623,483 to Agrawal et al.

24. With regards to claims 3, 22 and 31, Kobayashi teaches determining includes: forming a communication to send the message from the first process to the second process (test data, paragraph 30); receiving the response to the message by the first process from the second process (response reception, paragraph 30); and monitoring a time in relation to the communicating and the receiving to determine the amount of time (time calculation, paragraph 30), but fails to teach that the time if counted by using a timer. Agrawal teaches a timer for monitoring time (column 5, lines 24-39). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the timer of Agrawal with the communication system of Kobayashi in order to ensure proper timing generation.

25. With regards to claims 4, 14, 25, and 35, it is obvious to double the amount of buffer time as two is a low multiple to use for timing systems like that of Agrawal's.

26. Claims 5, 16, 27, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0216155 to Kobayashi in further view of U.S. Patent 5,758,057 to Baba et al.

27. With regards to claims 5, 16, 27, and 36, Kobayashi fails to teach, but Baba teaches allocating the buffer using a buffer size table (Fig. 9, element 123), wherein: the buffer size table has a plurality of entries (column 16, lines 8-24); the buffer is allocated based on the plurality of

entries (unused capacity, column 16, lines 8-24); and each said entry describes an amount of another buffer used to store data from the first process (unused capacity of total capacity, column 16, lines 8-24). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the buffer size table of Baba with the communication system of Kobayashi in order to eliminate buffer overflow by management of data.

28. Claims 15, 28, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0216155 to Kobayashi in further view of U.S. Patent Application Publication 2003/0219014 to Kotabe et al.

29. With regards to claim 15, Kobayashi fails to teach, but Kotabe teaches during the receiving, storing additional data from the first process in a second said buffer (Fig. 9, arrival times). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the continuous data reception of Kotabe with the communication system of Kobayashi in order to ensure proper timing delay for continuous data.

30. With regards to claims 28 and 37, Kobayashi fails to teach, but Kotabe teaches a buffer delay table having a plurality of entries (management tables, paragraphs 128-129), each said entry describing a buffer delay time that was previously computed by the IPC manager (delay calculations, paragraphs 110-114), wherein the IPC manager computes the buffer delay time from the amount of time and the previously computed buffer delay times (see delay calculations, paragraphs 110-114). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the buffer delay time table of Kotabe with the communication system of Kobayashi in order to ensure proper timing delay for continuous data.

31. Claims 29, 34, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0216155 to Kobayashi in further view of U.S. Patent 7,096,472 to Machida et al.

32. With regards to claims 29 and 34, Kobayashi fails to teach, but Machida teaches the IPC manager is executable to cancel the processing performed by the second process in response to a communication from the first process (column 2, lines 34-41). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the process cancellation of Machida with the communication system of Kobayashi in order to ensure proper timing for continuous data processing.

33. With regards to claim 39, Kobayashi fails to teach, but Machida teaches the providing means and the processing means are executable on a single client (column 1, lines 20-26). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the process cancellation of Machida with the communication system of Kobayashi in order to ensure proper timing for continuous data processing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Schneider whose telephone number is (571) 272-4158. The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JDS

KIM HUYNH
SUPERVISORY PATENT EXAMINER

12/21/06